UNITED STATES PATENT AND TRADEMARK OFFICE

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| 10/585,627 | 07/11/2006 | Jean-Marie Vau | 87691 knm | 7763 |

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| 1333 7590 03/31/2010 | | |

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| EXAMINER |
|---|
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)☒ Responsive to communication(s) filed on *05 January 2010*.
2a)☒ This action is **FINAL**.      2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)☒ Claim(s) *1-17* is/are pending in the application.
     4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-17* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

## Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
     a)☒ All   b)☐ Some * c)☐ None of:
       1.☒ Certified copies of the priority documents have been received.
       2.☐ Certified copies of the priority documents have been received in Application No. _____.
       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
     * See the attached detailed Office action for a list of the certified copies not received.

## DETAILED ACTION

1.      This action is in response to the amendment filed on 01/05/2010.

2.      The objection to the oath/declaration is withdrawn in view of applicant's

remarks/arguments.

3.      The objection to claims 16-18 is withdrawn in view of applicant's amendment.

4.      The rejection under 35 U.S.C. 102(b) as being anticipated by Hansson (U.S. 6,023,620)

to claims 1-17 is moot in view of new ground(s) of rejection.

5.      Claims 1-17 have been amended.

6.      Claim 18 has been canceled.

7.      Claims 1-17 are pending.


### *Response to Amendment*

### *Claim Rejections - 35 USC § 103*

8.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

9.      Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansson

(U.S. 6,023,620) in view of Jhanwar (U.S. 7,251,812).


**Per Claim 1:**

Hansson teaches automatically sending from an applications server to the terminal a digital data medium containing the programming agent, based on the digital data of a first message initially sent from the terminal to said applications server ("…Referring now to FIG. 1, there is illustrated an apparatus for remotely downloading software into a cellular telephone. An update server processor 100 communicates with a cellular telephone network 120 which in turn provides wireless communication to a cellular telephone 110. …" in column 2, lines 7-10); automatically extracting, from the terminal, the programming agent from the digital data medium; automatically saving the programming agent in the terminal ("…The update server processor 100 contains the new version of the software and controls the process for downloading the new software into the cellular telephone 110. … When a new version of the software is available, the update server processor 100 transmits a message via the cellular telephone network 120 to the cellular telephone 110 offering the option to download the new version of the software. …" in column 2, lines 10-15 and lines 40-45). Hansson does not explicitly teach automatically destroying the programming agent following its use from said terminal.

However, Jhanwar teaches automatically destroying the programming agent following its use from said terminal ("… The setup process deletes all downloaded temporary files after installation is complete. …" in column 13, lines 16-20).

It would have been obvious to one having ordinary skill in the computer art at the time of the invention was made to modify the process disclosed by Hansson to include automatically destroying the programming agent following its use from said terminal using the teaching of Jhanwar. The modification would be obvious because one of ordinary skill in the art would be motivated to dynamically update software prior to installation (Jhanwar, column 1, lines 40-43).

**Per Claim 2:**

Hansson further teaches characterized in that the digital data medium is a multimedia message of MMS type capable of containing image, text, sound and programming code data (column 2, lines 56-60).

**Per Claim 3:**

Hansson further teaches characterized in that the first message is an SMS type text message (column 4, lines 16-26).

**Per Claim 4:**

Hansson further teaches further comprising a step of automatically displaying the programming agent in an identified format, such as alphanumeric, or such as an icon (column 3, lines 25-40).

**Per Claim 5:**

Hansson further teaches characterized in that the programming agent is an encoded application program, placed in the digital data medium (column 4, lines 27-31).

**Per Claim 6:**

Hansson further teaches characterized in that a payment request for sending the digital data medium containing the programming agent to the terminal is performed automatically,

before the sending of said data medium to said terminal, said payment request being integrated

into an automatic payment procedure (column 4, lines 16-26).

**Per Claim 7:**

Hansson further teaches further comprising activating the programming agent, to

automatically perform the application corresponding with the encoded program (column 2, lines

41-55).

**Per Claim 8:**

Hansson further teaches characterized in that the activation of the programming agent

performs an automatic formatting (column 2, lines 7-15).

**Per Claim 9:**

Hansson further teaches further comprising, after the step of automatically saving,

sending the digital data medium containing the programming agent to at least a second terminal

(column 2, lines 8-15).

**Per Claim 10:**

Jhanwar further teaches characterized in that the code data of the programming agent are

automatically destroyed when the programming agent is deactivated (column 13, lines 18-20).

**Per Claim 11:**

Jhanwar further teaches further comprising keeping the code data of the programming

agent for a preset period, and automatically destroying the code data of the programming agent at

the end of the preset period (column 6, lines 48-52).


**Per Claim 12:**

Jhanwar further teaches characterized in that the preset period is included in the encoded

data of the programming agent (column 6, lines 49-51).


**Per Claim 13:**

Jhanwar further teaches characterized in that the code data of the programming agent are

automatically destroyed after a preset number of activations of the programming agent (column

6, lines 56-61).


**Per Claim 14:**

Hansson further teaches characterized in that a request for executing imaging work is sent

from the terminal to a platform for executing imaging work capable of communicating with the

terminal (column 2, lines 7-15).


**Per Claim 15:**

Hansson further teaches characterized in that the platform for executing photographic

work is a photographic laboratory or kiosk (column 3, lines 60-65).

## Per Claim 16:

Hansson further teaches wherein the programming agent automatically displays, on the

screen of the terminal, user interface elements adapted to the platform for executing

photographic work, or an online service (column 3, lines 35-39).


## Per Claim 17:

Hansson further teaches characterized in that the terminal is a mobile terminal (column 4,

lines 9-10).


### *Response to Arguments*

10.     Applicant's arguments with respect to claims 1-17 have been considered but are moot in

view of the new ground(s) of rejection.

*In the remarks, the applicant argues that:*

a)      Hansson fails to teach enables only one multimedia application to be stored on the

terminal to avoid overload of the memory space of said terminal.

Hansson does not recognize the problem of reduced memory capacities.


*Examiner's response:*

a)      In response to applicant's argument that the references fail to show certain features of

applicant's invention, it is noted that the features upon which applicant relies (i.e., enables only

one multimedia application to be stored on the terminal to avoid overload of the memory space

of said terminal or reduced memory capacities) are not recited in the rejected claim(s).  Although

the claims are interpreted in light of the specification, limitations from the specification are not

read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

*In the remarks, the applicant argues that:*

b)       Hansson fails to teach a single-use application.

         Hansson fails to teach enables having only one multimedia application stored at the same

time into the terminal.

*Examiner's response:*

b)       In response to applicant's argument that the references fail to show certain features of

applicant's invention, it is noted that the features upon which applicant relies (i.e., a single-use

application or enables having only one multimedia application stored at the same time into the

terminal) are not recited in the rejected claim(s). Although the claims are interpreted in light of

the specification, limitations from the specification are not read into the claims. See *In re Van*

*Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

## *Conclusion*

11.      Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

         A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

12.     Any inquiry concerning this communication from the examiner should be directed to

Qamrun Nahar whose telephone number is (571) 272-3730. The examiner can normally be

reached on Mondays through Fridays from 10:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Wei Y Zhen, can be reached on (571) 272-3708. The fax phone number for the

organization where this application or processing is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the TC 2100 Group receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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